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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/754,814 | 01/04/2001 | Jean-Jacques Yaouanc | 102.170A | 3475 |

7590 04/26/2002

Bierman, Muserlian and Lucas
600 Third Avenue
New York, NY 10016

EXAMINER

EPPS, JANET L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1635

DATE MAILED: 04/26/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 09/754,814 | Applicant(s) YAOUANC ET AL. | |
| | Examiner Janet Epps | Art Unit 1635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

- I. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-31, drawn to compounds, complexes, compositions, and methods of using said compounds, wherein said compound comprises a formula according to general formula (I), wherein A is a phosphorous atom, and R1 is selected from the a radical of formula (II), classified in class 521, subclass 108.
 - II. Claims 1-31, drawn to compounds, complexes, compositions, and methods of using said compounds, wherein said compound comprises formula according to general formula (I), wherein A is a phosphorous atom, and R1 is selected from the a radical of formula (III), classified in class 521, subclass 108.
 - III. Claims 1-31, drawn to compounds, complexes, compositions, and methods of using said compounds, wherein said compound comprises a formula according to general formula (I), wherein A is a phosphorous atom, and R1 is selected from the a radical of formula (IV), classified in class 521, subclass 108.
 - IV. Claims 1-31, drawn to compounds, complexes, compositions, and methods of using said compounds, wherein said compound comprises a formula according to general formula (I), wherein A is a phosphorous atom, and R1 is selected from the a radical of formula (V), classified in class 521, subclass 108.
 - V. Claims 1-31, drawn to compounds, complexes, compositions, and methods of using said compounds, wherein said compound comprises a formula according to

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general formula (I), wherein A is an arsenic atom, and R1 is selected from the a radical of formula (II), classified in class 424, subclass 621.

VI. Claims 1-31, drawn to compounds, complexes compositions, and methods of using said compounds, wherein said compound comprises a formula according to general formula (I), wherein A is an arsenic atom, and R1 is selected from the a radical of formula (III), classified in class 424, subclass 621.

VII. Claims 1-31, drawn to compounds, complexes, compositions, and methods of using said compounds, wherein said compound comprises a formula according to general formula (I), wherein A is an arsenic atom, and R1 is selected from the a radical of formula (IV), classified in class 424, subclass 621.

VIII. Claims 1-31, drawn to compounds, complexes, compositions, and methods of using said compounds, wherein said compound comprises a formula according to general formula (I), wherein A is an arsenic atom, and R1 is selected from the a radical of formula (V), classified in class 424, subclass 621.

2. The inventions are distinct, each from the other because of the following reasons:

The inventions of groups I-VIII represent compounds, complexes, compositions, and methods of using said compounds, wherein the invention of groups I-VIII are drawn to compounds that are structurally distinct chemical compounds. These compounds are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such compound represented by groups I-VIII is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141.

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3. Because the inventions of groups I-IV and V-VIII are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and because each of Groups I-VIII would require a unique search, restriction for examination purposes as indicated is proper.
5. A telephone call was made to Charles Muserlain on 4-25-02 to request an oral election to the above restriction requirement, but did not result in an election being made.
6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

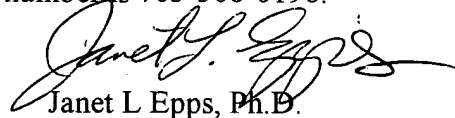
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L Epps, Ph.D. whose telephone number is 703-308-8883.

The examiner can normally be reached on M-T, Thurs-Friday 8:30AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on (703)-308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-746-5143 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Janet L Epps, Ph.D.

Examiner

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JLE

April 25, 2002